

Message Text

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FM SECSTATE WASHDC

TO USDEL SECRETARY IMMEDIATE

S E C R E T STATE 216598 TOSEC 250021

EXDIS

FOLLOWING SEOUL 6914 SENT ACTION SECSTATE SEPTEMBER 1.

QUOTE S E C R E T SEOUL 6914

EXDIS

PASS TO SECDEF WASHDC AND JCS WASHDC

JOINT EMBASSY/CINCUNC MESSAGE

EO 11652: GDS

TAGS: KS, PFOR

SUBJECT: PANMUNJOM NEGOTIATIONS

REF: (A) STATE 216547, (B) CINCUNC 311549Z AUG 76

1. WE HAVE RAISED THE QUESTION OF MAC ACCESS AS INSTRUCTED BY REF A BUT TAKE THIS OPPORTUNITY TO NOTE ALTERNATIVE APPROACH TO LEGAL ASPECT OF ISSUE AND TO EXPRESS OUR DOUBTS ABOUT THE FEASIBILITY OF PURSUING THIS ISSUE FURTHER IN PRESENT CIRCUMSTANCES.

2. AS REGARDS LEGAL ISSUES, THE AGREEMENT WE NOW ARE NEGOTIATING IS A MODIFICATION OF THE "AGREEMENT ON THE SECRET

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MILITARY ARMISTICE COMMISSION HQ AREA, ITS SECURITY AND ITS

CONSTRUCTION" DATED 19 OCTOBER 1953, NOT OF THE MILITARY ARMISTICE AGREEMENT (MAA). THERE ARE MANY ACTIVITIES PERMITTED BY THE MAA, E.G., FARMING, CIVIL POLICE, ENTRY INTO THE DMZ AUTHORIZED UNILATERALLY BY THE CDR, WHICH ARE PROHIBITED BY THE HQ AGREEMENT. CONVERSELY SOME ACTIVITIES PROHIBITED BY THE MAA ARE PERMITTED BY THE HQ AGREEMENT, E.G., CROSSING THE MDL WITHOUT CONSENT, ARMED MILITARY FORCES WITHIN THE DMZ, CONSTRUCTION OF GUARD POSTS. IT THEREFORE FOLLOWS THAT WHATEVER THE MAC AGREES TO WITH REGARD TO THE HQ AREA IN GENERAL AND THE JSA IN PARTICULAR IS WITHOUT PREJUDICE TO THEIR RIGHTS UNDER ART 11, MAA. GENERALIA SPECIALIBUS NON DEROGANT. MOREOVER, THE MA AGREEMENT ITSELF INSURES THAT THE MAC CANNOT MAKE AMENDMENTS OR MODIFICATIONS TO THE BASIC UNDERTAKING (SEE ART 35).

3. AS REGARDS CURRENT PRACTICE AND PRECEDENT, FOLLOWING SHOULD BE NOTED. UNC MAC MEMBERS HAVE NOT IN PAST CROSSED THE MDL IN THE JSA. ON OTHER HAND, KPA/CPV MEMBERS CURRENTLY ENTER THE JSA THROUGH THE BRIDGE OF NO RETURN, TRANSITING UNC SIDE OF JSA. THIS ROUTE WOULD BE DENIED THEM BY THE CURRENT NORTH KOREAN FORMULATION. THE ROK MILITARY IS PARTICULARLY DESIROUS, AT LEASE, TO SEVERELY LIMIT PKA TRAFFIC ON THE BRIDGE OF NO RETURN, A VIEW WE FULLY SHARE. RETAINING FREEDOM OF MOVEMENT FOR MAC WOULD, THEREFORE, PROVIDE THE OTHER SIDE WITH AN OPPORTUNITY FOR WHICH WE WOULD RECEIVE NO COMPARABLE BENEFIT IN RETURN.

SEEKING EXCEPTION FOR MAC PERSONNEL WOULD, MOREOVER, RUN CONTRARY TO SPECIFIC LANGUAGE PROVIDED BY KPA SECRETARY AUGUST 31, WHICH READ, "EXCLUDING MAC PERSONNEL OF ALL LEVELS, SECURITY GUARDS, AND ALL MILITARY PERSONNEL..." PRESSING THIS ISSUE WOULD, WE BELIEVE, DELAY NEGOTIATIONS FOR PROVISION WHICH WE BELIEVE IS NOT OF GREAT BENEFIT TO US AND IS SOME RESPECTS CONTRARY TO OUR INTERESTS.

5. WE, THEREFORE, PROPOSE TO SOLVE THE FREEDOM OF MOVEMENT ISSUE, INCLUDING THE CORPORATE MAC, BY COMMENTING TO THE NORTH KOREANS AT AN APPROPRIATE TIME "I WISH TO FURTHER NOTE THAT YOUR SIDE'S PROPOSAL WOULD LIMIT THE
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PRIOR ARRANGED MOVEMENT INTO THE OTHER SIDE'S AREA TO MAINTENANCE BY MILITARY COMMUNICATIONS MAINTENANCE PERSONNEL. I SUGGEST THAT THIS EXCEPTION, WHICH DEPENDS UPON THE PRIOR CONSENT OF BOTH SIDES, BE EXTENDED TO ANY MUTUALLY AGREED AUTHORIZED ACTIVITY BY UNARMED MILITARY PERSONNEL AS THE MAC SHOULD CHOOSE TO PERMIT TO INCLUDE THE MOVEMENT OF THE MAC ITSELF."

6. URGENTLY REQUEST CONCURRENCE. SNEIDER UNQUOTE
ROBINSON

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